



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,384	02/23/2005	Heinrich Haas	062587-5006	3937
9629 7590 08/25/2009 MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004				
EXAMINER				
DICKINSON, PAUL W				
ART UNIT		PAPER NUMBER		
1618				
MAIL DATE		DELIVERY MODE		
08/25/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.

10/525,384

Examiner

PAUL DICKINSON

Applicant(s)

HAAS ET AL.

Art Unit

1618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 18 June 2009 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☐ 4. Amendments to the claims:
 - ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims).
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):
See Continuation Sheet

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) **only** if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Eric E Silverman/
Primary Examiner, Art Unit 1618

Continuation of 5 Other: In the restriction requirement mailed 3/4/2009, Applicant was required to elect a single species of ammonium group (see restriction requirement, pages 3-4). In the reply filed 6/18/2009, Applicant elected the quaternary ammonium group of claim 53. However, the group disclosed in this claim does not correspond to an actual compound. The name N-[1-(2,3-diacyloxy)propyl]-N,N,N-trimethyl ammonium is nonsensical. Specifically, the group "1-(2,3-diacyloxy)propyl" is nonsensical. This name suggests that a "2,3-diacyloxy" group lies at the 1 position of the propyl group. "2,3-diacyloxy" is not, however, a group that can lie at a single carbon atom. The intended name may be N-[2,3-diacyloxypropyl]-N,N,N-trimethyl ammonium, meaning that two acyloxy groups lie along the propyl chain, one at the 2 position and one at the 3 position. Another alternative is that the intended compound may be N-[1,1-diacyloxypropyl]-N,N,N-trimethyl ammonium, meaning that two geminal acyloxy groups lie at the 1 position. Other alternatives include N-[1,2-diacyloxypropyl]-N,N,N-trimethyl ammonium, N-[1,3-diacyloxypropyl]-N,N,N-trimethyl ammonium, N-[1,2,3-triacyloxypropyl]-N,N,N-trimethyl ammonium, and N-[1-acyloxypropyl]-N,N,N-trimethyl ammonium. There is simply no way to determine the intended compound from the name alone, and the Examiner has been unable to use the specification and other claims to ascertain the intended compound. Therefore, the election of the quaternary ammonium group of claim 53 is being treated as non-complaint because no actual group has been elected, only a chemical name which does not correspond to an actual compound.